

REMARKS

Responsive to the restriction requirement set forth in the outstanding Official Action, applicant hereby provisionally elects Group I, claims 1-3 and 18-19, drawn to proteins, with traverse.

The grounds for traverse are as follows:

The same claims pending in the present national stage application were subject to examination during the international phase of the PCT application. The international Examiner found no lack of unity, applying the same legal standards to the identical facts. Thus, applicant believes that the U.S. Patent Office cannot now contend that the examination of the same claims in the present application would impose an undue searching burden. Indeed, the U.S. Examiner gives considerable benefit of the search results generated by the international Examiner, on the basis of all the pending claims.

Moreover, the Official Action fails to explain why, applying the identical legal standards to the identical claims, the opposite result is now being reached in the present U.S. national phase application, relative to the international application.

The Official Action does not comply with the requirements of PCT Rules 13.1 and 13.2, in seeking to justify the lack of unity determination. Specifically, the definition of

"special technical feature" in PCT Rule 13.2 is art-based. Therefore, applicant respectfully submits a proper lack of unity determination would require the citation of a reference showing the "special technical feature". No such citation having been made, the lack of unity determination is improper as a matter of law.

Indeed, applicant respectfully submits that Groups I-VII relate to a general inventive concept that does not impose an undue searching burden on the Examiner. Group I relates to the proteins of the present invention. Claim 1 refers to an isolated mite protein comprising of at least about 83 amino acids of the sequence disclosed in SEQ ID NO:2. The 83 amino acids are similar to the amino acid sequence disclosed in SEQ ID NO:3. In Group I, claims 2-3 are preferred variants of the protein, and claims 18-19 refer to a vaccine preparation comprising the protein of claims 1-3.

As to Group II, claims 4-9 refer to an isolated nucleic acid encoding the protein of claims 1-3, an expression vector comprising the nucleic acid, a recombinant cell comprising the vector, and a method for producing a protein by expressing the nucleic acid. Applicant respectfully submits that any search for art relevant to Group II would reveal all prior art relevant to Groups I and III-VII, and vice versa.

The claims of Group III relate to antibodies that are raised towards the protein of claims 1-3. Applicant believes that the antibody relates to the protein in the same way as a key to a keyhole. Thus, it is believed that the antibodies and proteins are part of the same general inventive concept.

Group IV refers to the use of the protein according to claims 1-3 in an assay, a screening method or in a vaccine preparation, or the protein utilized in a vaccine. Thus, applicant believes that these claims could be considered as applications of the same general inventive concept. As a result, applicant believes that an examination of Group IV with the other groups would not impose an undue searching burden on the Examiner.

Group V relates to a screening method for the protein according to claims 1-3. As the claims of Group V relate to screening methods that utilize the proteins of claims 1-3, applicant also believes that an examination of Group V would reveal all relevant art for the other groups, and vice versa.

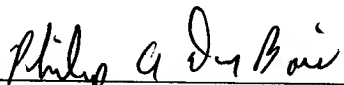
Group VI refers to a method of preventing a disease associated with mites. The method recites administering a vaccine preparation comprising a protein according to claims 1-3. As a result, it is believed that an examination of Group VI fails to present an undue searching burden on the Examiner.

Group VII refers to a method of diagnosis and a kit for performing the method of diagnosis. The method comprises the immobilization of a protein according to claims 1-3. Thus, Group VII may be considered as an application of the protein and part of the same general invention. As a result, applicant believes that an examination of the claims of Group VII along with the other claims in the present application does not impose an undue searching burden on the Examiner.

In view of the foregoing remarks, it is respectfully submitted that the outstanding restriction requirement is improper and must be withdrawn. Therefore, reconsideration of the present application is respectfully requested.

Respectfully submitted,

YOUNG & THOMPSON


Philip A. DuBois, Reg. No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

PD/lrs